

REMARKS**Status of the Claims**

Claims 14-33 were previously pending. Claims 15-19, 24-29, 32 and 33 have been cancelled without prejudice or disclaimer as being drawn to a non-elected invention. Claims 14 and 20-23 have been amended. Claims 30 and 31 have been cancelled and replaced with new claims 35 and 36. Claims 34-39 have been newly added by amendment.

The subject matter of these amendments is fully supported by the original specification and claims. Accordingly, no new matter has been added by the instant amendments.

Claim 14 has been amended to incorporate claim 20, and is directed to the enteral or parenteral treatment of neuropathy with N-methyl-N-[(1S)-1-phenyl-2-((3S)-3-hydroxypyrrolidin-1-yl)ethyl]-2,2-diphenylacetamide or a derivative, solvate, salt or stereoisomer thereof. Support for the enteral or parenteral administration of N-methyl-N-[(1S)-1-phenyl-2-((3S)-3-hydroxypyrrolidin-1-yl)ethyl]-2,2-diphenylacetamide and related forms can be found, for example, at page 16, lines 5-6 or page 23, lines 31-32.

Claim 23 has been amended to incorporate claim 20, and is directed to the treatment of diabetic neuropathy. Support for this limitation can be found in the specification, *inter alia*, on page 3, lines 27-28, on page 13, lines 4-10 and line 31 through page 15, line 9. Support for claim 34 can be found in the specification, *inter alia*, in original claim 6. Support for claims 35 and 36 can be found, *inter alia*, on page 2, lines 7-9, and page 3, line 27 through page 4, line 4.

Support for new claim 37 is found in the specification, *inter alia*, in original claim 7. Support for claim 38 can be found in the specification, *inter alia*, in original claim 6. Support for claim 39 can be found in the specification, *inter alia*, in original claim 8 and at page 11, lines 4-8.

Entry of the amendments and reconsideration of the claims are respectfully requested.

Upon entry of these amendments, claims 14, 20-23, and 34-39 will be pending.

Restriction Requirement

The Office alleged that the pending claims of the application are directed to several groups of invention which are not so linked as to form a single general inventive concept under PCT Rule 13.1. Applicants are required to elect a single invention to which the claims must be restricted.

The Election of an Invention

Applicants elect, without traverse, to prosecute Group II, drawn to a method of using selective opiate receptor modulators for the prophylaxis and/or treatment of neuropathy and related disorders. Accordingly, Applicants have amended claims 14 and 20-23, and cancelled claims 15-19, and 24-33. New claims 34-39 are further drawn to method of using selective opiate receptor modulators for the prophylaxis and/or treatment of neuropathy and related disorders, and are properly included in Group II.

Species Election Requirement

The Office alleged that the pending claims of the application do not relate to a single inventive concept under PCT Rule 13.1, as set forth in detail on pages 3-5 of the Office Action. Applicants are required to elect single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

The Species Election

Applicants elect, without traverse, the species N-methyl-N-I(1 S)-1-phenyl-2-((3 S)-3-hydroxypyrrolidin-1-yl) ethyl-2,2-diphenylacetamide) as the selective opiate receptor modulator, where claim 37 is generic.

Applicants further elect, without traverse, treatment of neuropathy and related disorders as the purpose of use of the selective opiate receptor modulator, where claims 14, and 20 are generic.

Applicants further elect, without traverse, post-herpetic neuralgia as the neuropathy-related disorder, where claims 14, 20, and 37-39 are generic.

Applicant's elections are made without prejudice. As noted by the Examiner, upon the allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141.

Applicants expressly reserve the right under 35 U.S.C. § 121 to file a divisional application directed to the non-elected subject matter during the pendency of this application, or an application claiming priority from this application.

Applicants request examination of the elected subject matter on the merits.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing **Docket No. 613242000900**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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